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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 10**  
1200 Sixth Avenue  
Seattle, Washington 98101



**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**  
**NATIONAL MARINE FISHERIES SERVICE**

7600 Sand Point Way N.E.  
Seattle, Washington 98115

January 26, 2001

Samuel E. Penney, Chairman  
Nez Perce Tribal Executive Committee  
P. O. Box 305  
Lapwai, Idaho 83540

Dear Chairman Penney:

Thank you for your December 4, 2000, letter expressing the reluctance of the Nez Perce Tribe to use Endangered Species Act processes for Clean Water Act (CWA) compliance. Specifically, you expressed concern about a proposal to refer CWA violations and water quality issues in the Columbia and Snake River basins to the Water Quality Team of the National Marine Fisheries Service (NMFS) Endangered Species Act (ESA) Regional Forum.

In developing the NMFS 2000 Federal Columbia River Power System Biological Opinion, NMFS, in coordination with the Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service, and the Federal Action Agencies (U.S. Army Corps of Engineers, Bureau of Reclamation, and Bonneville Power Administration), considered the respective ecological objectives of the ESA and the CWA. In many instances, actions implemented for the conservation of ESA-listed species will also move toward attainment of water quality standards (e.g., reducing total dissolved gas and temperature). In addition, the 2000 Biological Opinion recommends reformulating the existing Water Quality Team, as a part of the NMFS ESA Regional Forum process, to provide a forum to integrate both ESA and CWA activities.

This proposed forum will not in any way supercede or displace any existing CWA obligations or requirements, any federal tribal trust or consultation responsibilities, or any EPA, state, tribal, or citizen implementation or enforcement authority. Instead, the proposed forum is intended to assist in coordinating Columbia and Snake River ESA decisions to ensure that they reflect the need to address water quality. The proposed ESA/CWA forum will be a challenging effort and, if successful, could provide an opportunity to make progress toward attainment of water quality standards in the Columbia and Snake Rivers. At the same time, under existing CWA authorities, EPA and the states are beginning the Total Maximum Daily Load (TMDL) process for dissolved gas and temperature in the Mainstem Columbia and Snake Rivers, which will also be coordinated with other state and federal decisions and actions that affect water quality in the Columbia River.

EPA and NMFS both appreciate the high degree of engagement of the Nez Perce Tribe in these ongoing and future discussions and decisions. We welcome the Nez Perce Tribe's participation in a reformulated Water Quality Team with federal, tribal and state



representation with the goal of sharing information on Columbia River ESA/CWA coordination and implementation efforts. It is our intent that tribal coordination meetings will continue to occur to share information on the Columbia River ESA/CWA coordination efforts and the Mainstem TMDLs. If you have any questions or would like further information, please contact Mary Lou Soscia (503-326-5873) or Jim Ruff (503-230-5437).

Sincerely,



Chuck Findley  
Acting Regional Administrator  
U.S. Environmental Protection Agency



Donna Darm  
Acting Regional Administrator  
National Marine Fisheries Service

cc Stephanie Hallock, Oregon Department of Environmental Quality  
Tom Fitzsimmons, Washington Department of Ecology  
Steve Allred, Idaho Department of Environmental Quality